

PT 98-82

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

**NEW WINE FELLOWSHIP
Applicant**

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

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**Docket # 96-54-9
Parcel Index # 54-12-581-003-00**

**Barbara S. Rowe
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 W. Jefferson Street, Springfield, Illinois, on January 28, 1998, to determine whether or not Logan County Parcel Index No. 54-12-581-003-00 qualified for exemption during the 1996 assessment year.

Mrs. Shirley Barry, Treasurer of the New Wine Fellowship (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1996 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether the parcel was used by the applicant or being adapted by the applicant for religious purposes during the 1996 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned the parcel from August 29, 1996, through December 31, 1996. It is also determined that the applicant is a religious organization. Finally, it is determined that the applicant was in the process of adapting the parcel for religious purposes from August 29, 1996, through December 31, 1996.

Findings of Fact:

1. The jurisdiction and position of the Department that Logan County Parcel Index No. 54-12-581-003-00 did not qualify for a property tax exemption for the 1996 assessment year was established by the admission into evidence of Department's Ex. Nos. 1 through 5. (Tr. p. 12)

2. On January 13, 1997, the Department received a property tax exemption application from the Logan County Board of Review for Permanent Parcel Index No. 54-12-581-003-00. The applicant had submitted the request, and the board recommended that the Department grant a partial exemption for the 1996 assessment year for the period of August 29, 1996, through December 31, 1996. The Department assigned Docket No. 96-54-9 to the application. (Dept. Grp. Ex. Ex. No. 2)

3. On May 30, 1997, the Department denied the requested exemption application, finding that the property was not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices in Springfield, Illinois, on January 28, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject property by a warranty deed dated August 29, 1996. (Dept. Ex. No. 2 pp. 4-5)

7. The property was acquired as a parsonage for the applicant's minister. (Dept. Ex. No. 2 p. 3)

8. I take administrative notice of the fact that the applicant was granted a property tax exemption pursuant to Docket No. 85-54-5 wherein the Department granted the applicant an exemption for a parsonage. In that application, the applicant answered "yes" to the question of whether it is a condition of employment of the applicant's minister to reside in the parsonage. (Applicant's Ex. Nos. 1 & 2; Tr. p. 13)

9. On the parsonage questionnaire sent by the Department to the applicant

concerning the subject exemption request, in response to question No. 3 that asked “Is the minister required, as a condition of employment, to reside in the parsonage?” the applicant replied “No.” (Dept. Ex. No. 2 p. 6)

10. The applicant answered “No” to the question because there was no written record of the requirement that the pastor reside in the residence. It has, since 1985, been the practice of the applicant to provide a parsonage for its pastor due to the requirement that the clergyman reside within close proximity to the church in order to fulfill the ministerial duties. (Dept. Ex. Nos. 4 & 5; Applicant’s Ex. Nos. 1 & 2)

11. The building located on the subject parcel was over 100 years old and required extensive renovations including drywalling, new wiring, and new windows. Applicant’s pastor moved into the home at the end of August 1997. (Dept. Ex. No. 4; Tr. pp. 14-15)

12. On the first of September 1997, the assistant minister who is in charge of applicant’s Bible school and his wife moved into the parsonage that had been granted the exemption pursuant to Docket No. 85-54-5. (Dept. Ex. No. 4; Tr. pp. 14-15)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations,. . . .

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

Pursuant to Docket No. 85-54-5, the Department has determined that the applicant is a religious organization that qualified for a property tax exemption for another parsonage that the applicant owns. Although the parsonage questionnaire that the applicant submitted with the subject exemption request stated that it was not a condition of the pastor's employment to live in this parsonage, I find that response is not supported by the testimony of the witness for the applicant. She stated that her presumption was that a written contract or agreement had to be executed in order for the requirement to be considered a condition of the employment. The applicant purchased the home of the minister in Docket 85-54-5, so a written deed conveying the property to the applicant was executed between the minister and the applicant. However, the statute does not require a written contract or agreement between the church and minister. Rather, it states that the religious institution requires the persons who perform the religious related activities live in the parsonage. I see no difference between the use of this parcel as a parsonage for the minister and the use of the parcel in Docket No. 85-54-5.

I therefore find that the applicant was under an erroneous impression in its response to question No. 3 of the parsonage questionnaire. I also find that applicant has established that it is a condition of the employment of the minister to reside in the subject facility.

In the case of Weslin Properties, Inc. v. Department, 157 Ill.App.3d 580 (1987), the Appellate Court held that property which was under development and adaptation for exempt use qualified for exemption. I find that applicant's adaptation of a 100-year-old house by doing extensive drywalling, painting, and repairs to make the home suitable for use as a parsonage also qualifies for exemption.

I therefore find that Logan County Parcel Index No. 54-12-581-003-00 qualified for a property tax exemption for the period of August 29, 1996, through December 31, 1996, or for 34% of the 1996 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
OCTOBER 13, 1998